SCHOOL ADMINISTRATIVE UNIT FORTY-ONE

Brookline, Hollis & Hollis/Brookline Cooperative School Districts

PO Box 1588 4 Lund Lane Hollis, NH 03049 (603) 465-7118

RECEIVED & INSPECTED

FCC - MAILROOM

March 2, 2004

Federal Communications Commission Office of the Secretary 445 - 12th Street, SW Washington, DC 20554

Subject: Request for Review of USAC Decision on FRN 961463 CC Docket No. 02-6

To Whom It May Concern:

I would greatly appreciate your reconsideration of USAC's decision to deny our application for year six (2003-2004) Erate funding.

Repeated reviews of our application by USAC, and our belief that the application was approved, led to our missing the deadline for filing a USAC appeal.

I can assure you that the circuits, which were initially in question, and the SAU 41 network are only used for providing Internet access to our students, teachers and administrators.

We firmly believe that the SAU 41 network has always complied completely with Erate program rules and that all components meet the requirements of the USAC "Eligible Services List".

If you require any further information, please feel free to contact me. I appreciate you consideration and assistance.

Sincerely

Kennet L. Debenedictis, Ed.D. Superintendent of Schools

Hollis Brookline School District

No. of Copies rec'd

JAN 1 3 206



Universal Service Administrative Company

Schools & Libraries Division

Administrator's Decision on Appeal

January 7, 2004

Dr. Kenneth L. DeGenedictis, Ed.D School Administrative Unit 41 P.O. Box 1588 4 Lund Lane Hollis, NH 03049

Re:

Application Number:

356431

Billed Entity Number:

120891

Funding Year:

2003-2004

Decision Letter Date:

07/14/03

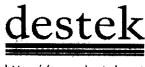
Date Appeal Postmarked:

10/09/03

Our records show that your appeal was postmarked more than 60 days after the date your Form 471 Funding Commitment Decision Letter was issued, as shown above. Federal Communications Commission (FCC) rules require applicants to postmark appeals within 60 days of the date on the decision letter being appealed. FCC rules do not permit the SLD to consider your appeal.

If you believe there is a basis for further examination of your application, you may file an appeal with the FCC. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be **POSTMARKED** within 60 days of the above date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site or by contacting the Client Service Bureau via e-mail at question@universalservice.org, toll-free via fax at 1-888-276-8736 or toll-free via phone at 1-888-203-8100. We strongly recommend that you use the electronic filing

Schools and Libraries Division
Universal Services Administrative Company



http://www.destek.net

March 3, 2004

MAR - 8 2004

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Corporate Wide Area Networking

Business Internet Access

Virtual Internet Hosting

Consulting

Federal Communications Commission Office of the Secretary 445 - 12th Street, SW Washington, DC 20554

Subject: Request for Review of USAC Decision on FRN 961463 CC Docket No. 02-6

To Whom It May Concern:

I am writing this letter in support of the appeal being made by School Administration Unit 41 (SAU 41). Enclosed please find copies of all information that has been submitted to the Schools and Libraries Division of USAC and their "Administrator's Decision on Appeal" letter dated January 7, 2004 denying SAU 41's request for appeal.

Essentially, an err on the part of a reviewer at the SLD has lead to three separate PIA reviews of SAU 41's form 471, the involvement of the FCC OIG. months of correspondence and confusion and the ultimate denial by USAC because SAU 41 missed their appeal deadline.

Included in the attachments is an email message that I sent to Mr. Charles Willoughby of the FCC Office of Inspector General on 9/24/03. I believe that the message outlines the experience and provides a reasonable explanation for the USAC appeal being submitted late.

We would appreciate you reconsideration and approval of the SAU 41 Funding Application If you have any questions you can reach me in my office at 603-594-9630 ext. 207.

The Destek Group One Indian Head Plaza Nashua, NH 03060

603.594.9630 800.656.9547

FAX: 603.598.8864

inquire@destek.net

President & COO

The Destek Group, Inc.

FUNDING COMMITMENT REPORT Service Provider Name: The Destek Group, Inc. Service Provider Identification Number: 143004379 Funding Request Number: 961463
Form 471 Application Number: 356431
Form 470 Application Number: 869120000443546
Name of 471 Applicant: SCHOOL ADMINISTRATIVE UNIT 41
Applicant Street Address: 4 Lund Lane
P.O. Box 1588 Applicant City: HOLLIS
Applicant State: NH
Applicant Zip: 03049-1588
Entity Number: 120891
Name of Contact Person: DR. KENNETH DEBENEDICTIS
Preferred Mode of Contact: EMAIL
Contact Information: blastosl@sau41.kl2.nh.us
Funding Year: 2003 (07/01/2003 - 06/30/2004)
Funding Status: Not Funded
Contract Number: N/A
Services Ordered: Internet Access
Billing Account Number: N/A
Allowable Vendor Selection/Contract Date: 01/15/2003
Contract Award Date: 02/01/2000
Earliest Possible Effective Date of Discount: 07/01/2003
Contract Expiration Date: 06/30/2004
Monthly Recurring Charges: \$0.00
Portion of Monthly Recurring Charges that is Ineligible: Portion of Monthly Recurring Charges that is Ineligible: \$0.00 Eligible Monthly Pre-Discount Amount for Recurring Charges: \$0.00 Number of Months Recurring Service Provided in Funding Year: 12 Annual Pre-Discount Amount for Eligible Recurring Charges: \$0.00 Annual Non-Recurring Charges: \$42990.00 Annual Non-Recurring Charges: \$42990.00
Portion of Annual Non-Recurring Charges that is Ineligible: \$0.00
Annual Pre-Discount Amount for Eligible Non-Recurring Charges: \$42990.00
Total Program Year Pre-Discount Amount: \$42990.00
Applicant's Approved Discount Percentage: N/A
Funding Commitment Decision: \$0.00 - Inel. svcs./ or product(s)
Funding Commitment Decision Explanation: 30% or more of this FRM includes a request for 2 point to point private natural circuits which are ineligible based on program rules. Shared discount was corrected.
Technology Plan Approval Status: Pending Approval
Wave Number: 007
Applicant Letter Date: 07/14/2003 Applicant Letter Date: 07/14/2003 -may 1 Stuy Carled back 1-5 SAU 41 1.5-7118 X 121

Subject: Good Day Mr. Willoughby - Thank you for your assistance

Date: Mon, 21 Jul 2003 13:09:47 -0400 **From:** Brian Susnock brian@destek.net>

To: Charles Willoughby <cwilloug@fcc.gov>, Senator Green <richard.green@leg.state.nh.us>,

"Mr. Mehlhorn" <mehlhornr@sau41.k12.nh.us>, blastosl@sau41.k12.nh.us

Good Morning Mr. Willoughby,.

Thank you for taking my call this morning and listening to my story. I greatly appreciate your ability to filter out my rage.

I have been helping New Hampshire Schools apply for E-rate funding since the program began. It hasn't ever been fun but it has helped us accomplish a lot for the NH schools that elect to deal with the onerous process. If not for the E-rate program and Destek, many schools in NH and VT would not have access to the Internet or any network at all.

There are a million stories in the past six years but, I will try to stay with the one at hand. FRN 961463 School Administrative Unit 41.

Essentially we have just had a School Administrative Unit 41(SAU 41) denied funding based on the use of a particular type of telecom circuit, a Point to Point circuit. The Funding Committment Report dated July 14, states that the committment is "\$0.00 because of inelgible services." It goes on in a Decision Explanation: "30% or more of this FRN includes a request for 2 point to point private network circuits which are inelgible based on program rules."

I called the E-rate/USAC number as soon as I read the letter last Friday. A person named Christy and her supervisor named Roger, opened Case 1-308503 for me. I pointed out to them that the SAU 41 network has been in place for five years and there has never been a question on the configuration.

I went on to ask if they had any idea of how a network was built, or what a Point to Point circuit was. I also asked if they appreciated that a Point to Point could be used as part of a Wide-Area-Network (WAN) to tie schools to a central site in a Hub/Spoke configuration for the delivery of Internet access and the centralization of network services. They were not able to define the elements or speak intelligently about the network infrastructure.

Their response was to simply tell me that I can file an appeal.

Mr. Willoughby, I have no time to file an appeal everytime a clerk at USAC denies funding because of something they do not understand. As I mentioned to you this morning the entire State of New Hampshire is very much opposed to the E-rate program because of the paperwork and the process. I have been through the appeal process a couple of times and it was very time consuming and painful.

If someone had simply called to determine the nature of the Point to Point circuit in this case, perhaps they would not have denied funding out of hand. However, even a call will not guarantee that the correct decision will be made if the clerk has no understanding of Telecommunications and Network design. I have had occasion to debate semantices with other voices on the phone.

My greatest concern about this situation is how these unfounded rejections are going to create havoc at the schools. The E-rate funding as I have said is abosolutely critical to most schools ability to justify and fund Internet access. A rejection of their E-rate puts a school into a tail spin that can involve even the School Board. A lot of time and effort is going to be needlessly consumed by this error.

I have taken the time to visit the Elgibility Services List and have excerpted a couple of entries that support my case. Under "Digital Transmission Services" "Leased data circuits for voice, video, and/or data that connect an elgible school or library facility to other locations beyond the school or library.

Furthermore, on page nine, Wide-Area-Network Services cover connections from within an elgible school or library to other locations beyond the school or library.

In my conversation on Friday with the E-rate representaives I had to explain that every circuit is LEASED, from one ILEC or another. The person I was speaking with was convinced that being "Leased" meant INELGIBLE, even though it is part of a description for an elgible service.

I don't know how I can help prevent this situation from happening to others but if I can please let me know how. For the time being I would appreciate your assistance in getting this letter to the people that can stop any further errors from occuring, and can help me reverse the Funding Decision for SAU 41.

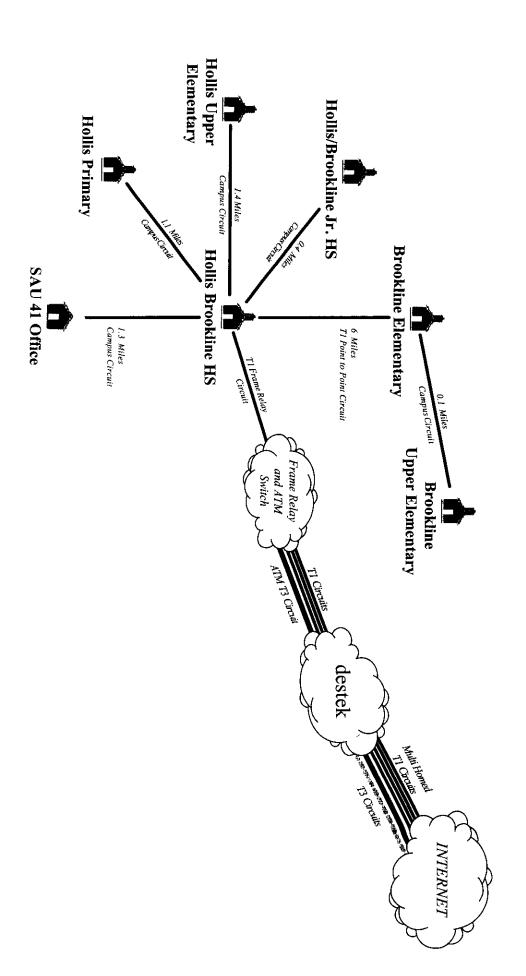
Regards
Brian Susnock
President and COO
The Destek Group Inc.
1 Indian Head Plaza
Nashua, NH. 03060
603-594-9630 ext. 207
Fax 603-598-8864
brian@destek.net

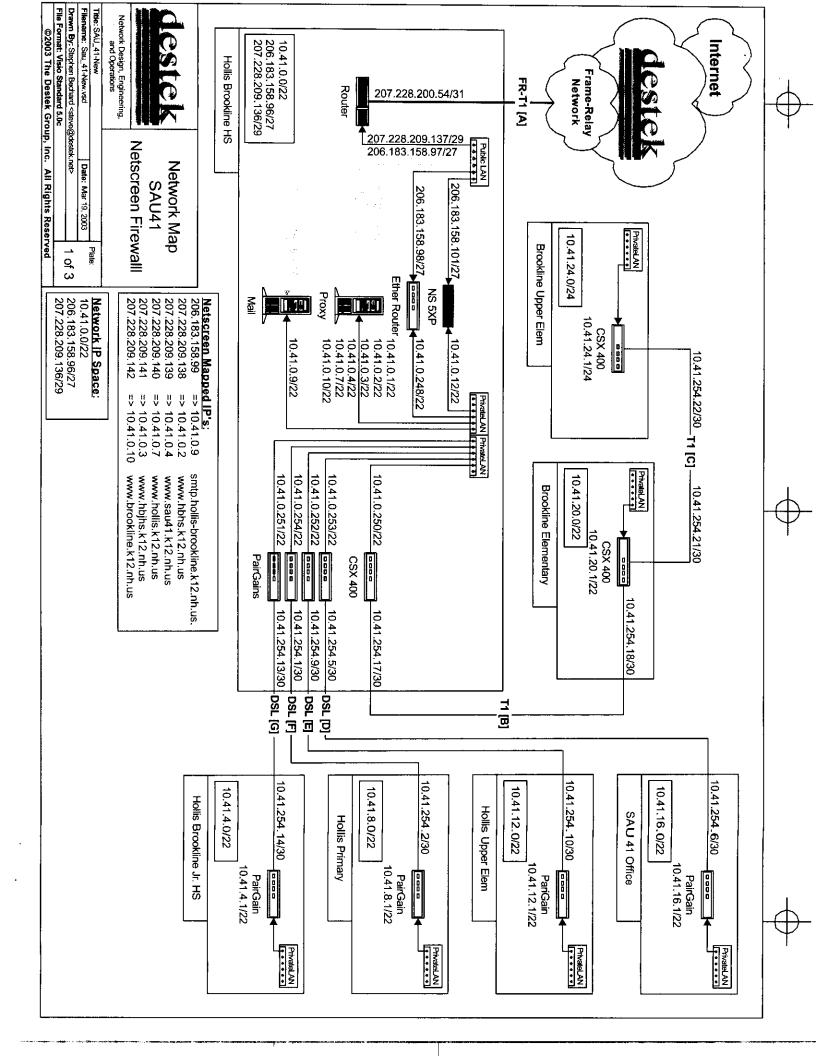
SAU 41 NEW Concept.pdf

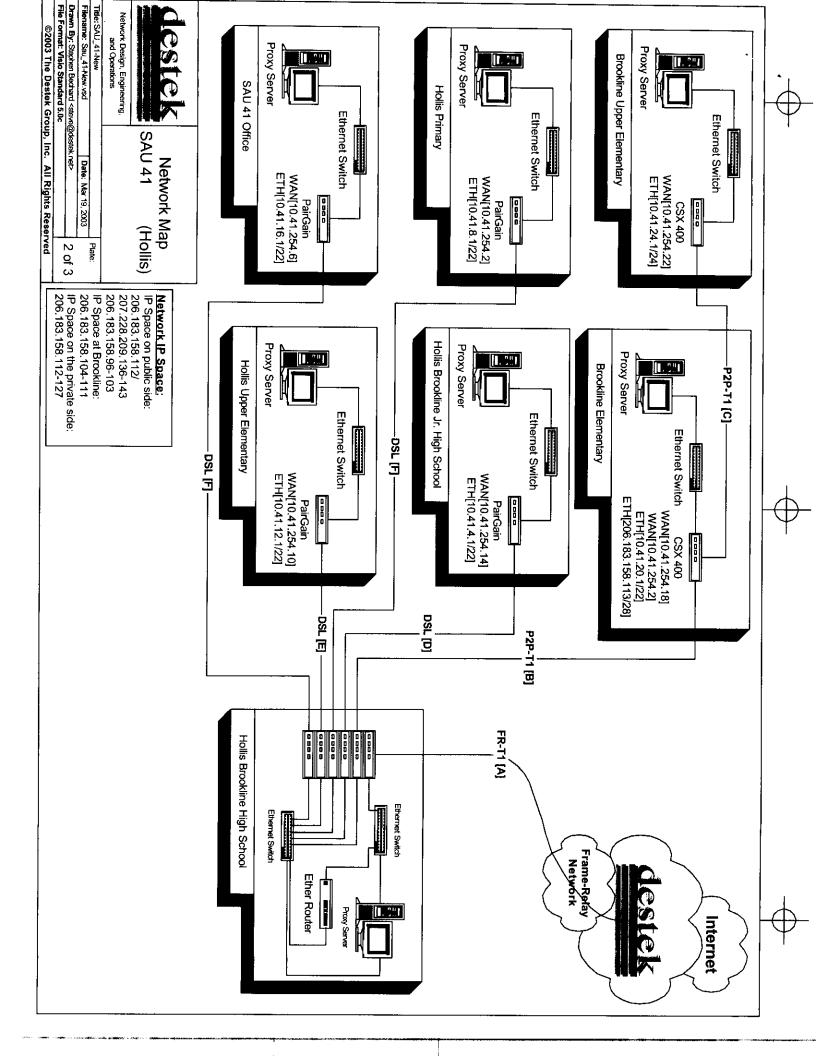
Name: SAU 41 NEW Concept.pdf

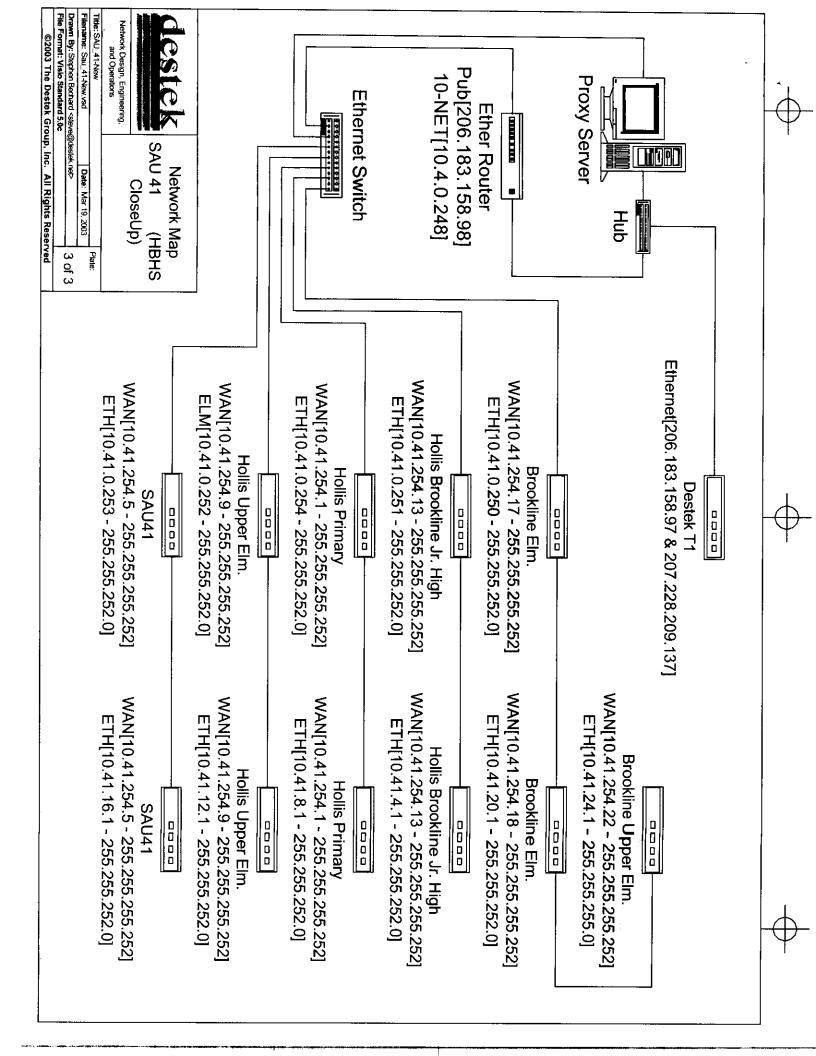
Type: Acrobat (application/pdf)

Encoding: base64









Subject: [Fwd: [Fwd: Good Day Mr. Willoughby - Thank you for your assistance]]

Date: Thu, 14 Aug 2003 11:33:54 -0400 From: Brian Susnock brian@destek.net>

To: Charles Willoughby <cwilloug@fcc.gov>

BCC: brian@destek.net

Good Day Mr. Willoughby,

I just left you a voice mail message and I know that you are on vacation until tomorrow (8/15/03)

I am resending a message I sent to you last week that indicated my suspicion that the Erate folks would be denying the funding for the Stark Village School.

When I initially contacted you I believe that I mentioned Stark and SAU 41. They were both in jeopardy of being denied because of the lack of understanding on the part of the clerks reviewing their applications.

Fortunately, and perhaps attributable to your intervention, SAU 41's funding was approved and moved through the review process at a pace I have never seen before.

Unfortunately, Stark Village School's application was denied for the exact same misunderstanding that nearly caused the denial of the SAU 41 application.

Two days ago I drove 179 miles north to install the circuit the connects the Stark network to the SAU 58 Wide-Area-Network in Groveton, New Hampshire. I did it myself to save the school money and to get another look at the resource requirements that remain.

There are still a number of things that must be completed before Stark School will be fully integrated into the WAN and configured. It appears that much of the work will have to be delayed until next year because of a lack of funds.

The annual cost for the circuit that I installed is approximately \$4,000. Erate was suppose to cover 80% of that. With their funding denied I believe that we will have to cancel the circuit and with it their connection to the SAU and Internet.

I am extremely frustrated and angry about this situation. I have been helping NH Schools apply for Erate for six years, and I believe we have brought back to the State about one million dollars in Erate funding, a very small fraction of the money taken out of the State by the USF.

It has been a lot of work, but it is worth it to help the schools.

My biggest problems with the Erate program include the fact that the process hasn't gotten any easier in six years and the schools

that decide to undergo the arduous process are subject to denial by people that have no background for making the decision to approve or deny an application.

I would sincerely appreciate an opportunity to speak with you about this and to work with you to correct the problem.

Regards Brian Susnock

I appreciate the fact that you will be catching up on things when you return.

Subject:

Date: Thu, 07 Aug 2003 12:53:55 -0400 **From:** Brian Susnock brian@destek.net>

To: Charles Willoughby <cwilloug@fcc.gov>

Good Afternoon Mr. Willoughby,

I received your voicemail message confirming the receipt of my message to you, thank you very much.

Unfortunately, I have not been contacted by anyone from your office or USAC regarding the issues I have raised.

After calling the USAC this morning, I am afraid that they have denied funding for the Stark Village School FRN 971553, based on the clerk's mis-understanding of a particular type of data circuit.

Could you please give me an update.

Sincerely,

Brian Susnock President and COO The Destek Group Inc. 1 Indian Head Plaza Nashua, NH. 03060 603-594-9630 ext. 207 Fax 603-598-8864 brian@destek.net

Subject:

Date: Wed, 10 Sep 2003 07:28:04 -0400 **From:** Brian Susnock brian@destek.net>

To: Charles Willoughby <cwilloug@fcc.gov>

Good Morning,

I did manage to get through to Mark Palmer at the SLD yesterday.

He has re-reviewed both the SAU 41 and Stark Village School funding applications. Although he was hesitant to discuss the status of the review with me, he did give up enough information to be optimistic about both applications.

I got the feeling that Palmer was selected to conduct the re-review because he seemed to have a grasp on the elements of a network. As I mentioned in an earlier message, his questions to SAU 41 were the type of questions that should have been asked in the first review.

He said that the SAU 41 had been completed and that he believed the Stark re-review would be completed by yesterday afternoon. After he finished up, he would give the results to the person that assigned him the task. He did not mention a name.

I am hopeful that what I gleaned from the conversation will be in fact the approval of both funding applications. As soon as I hear from the SLD or the schools I will let you know the outcome.

I am still concerned that the Erate process is full of problems that need to be corrected. So many schools refuse to even apply and the few New Hampshire Schools that do, have to jump through unnecessary hoops to get the money that they deserve and need.

>From my experience, (six fun filled years of Erate) the primary issue is the lack of understanding on the part of the SLD staff. No one there seems to have more than a hint of knowledge about building and maintaining networks. They rely to heavily on rules written by attorneys, who also had very little, if any, experience with technology, networks or the acquisition of those assets.

I don't have a solution to training the SLD but I think I might be able to help if given the opportunity. The first thing I would do is rewrite many of the definitions that the people on the phones rely on to make decisions and to dispense information. The FCC's proclamation that everything is "Information Services" would be a good place to start.

I can't thank you enough for your assistance and your advice. The appeals process that we nearly got forced into would have been even more time consuming and frustrating than what you just witnessed. Thank you for saving me from it.

I still have the SAU 2 situation to deal with and I will let you know how that is going as soon as I can.

Today I am attending a Senate meeting in Concord, NH to debate the taxation of the Internet. I'll forward you a couple of emails that I think you will find very interesting.

I hope you have a great day !

Good Morning Mr. Willoughby - I did get through to Mark Palmer

Regards Brian Subject: Good Morning Mr. Willoughby

Date: Wed, 24 Sep 2003 13:28:38 -0400 **From:** Brian Susnock brian@destek.net>

To: Charles Willoughby < cwilloug@fcc.gov>

BCC: brian@destek.net, Bruce <dadof4girls_03582@yahoo.com>,

Howard Roemer hroemer@destek.net, "Hale, Allan" a hale@inter-lakes.k12.nh.us,

Stephen Bechard <steve@destek.net>,

"tepare@library.state.nh.us" <tepare@library.state.nh.us>,

Cynthia Johnson <cjohnson@minlib.net>, "Mr. Mehlhorn" <mehlhornr@sau41.k12.nh.us>

Mr. Willoughny,

I just had a conversation with Mr. Andy Isley of USAC. He informed me that SAU 41 and Stark Village School have been denied and that the only recourse for them is to file a formal Appeal.

After three reviews and two indications that the funding applications would be approved, this news is very disconcerting, to say the least.

To recap the ordeal thus far:

SAU 41 and Stark Village both submitted their funding requests on time and as prescribed by USAC and the SLD.

Both applications wound up in the Program Integrity Assurance (PIA) Group. The PIA is responsible for making sure that the discounts schools receive are for eligible services provided to eligible entities for eligible uses, according to FCC rules.

Two members of the PIA Team contacted SAU 41 and Stark Village. They asked for supporting documentation to verify that the information on their applications was in compliance and the funding requests should be approved. I supported the schools by providing Network diagrams and pricing information.

Pat Von Engle reviewed the Stark Village Allication and Andrew Dick reviewed SAU 41's application. The reviews took place in mid-July.

>From my discussions with both reviewers I felt that they did not posses the knowledge needed to make reliable decisions on the elgibility of network elements. Ms. Von Engle was insistent that a Point to Point Circuit (a.k.a. Private Line)was inelgible under all circumstances.

Eventually, in both cases, the PIA reviewer indicated that the supporting information I provided had substantiated the elgibility of the applications and that both funding requests would be approved.

However, A short time later form letters were received from the SLD that indicated that the decision of both reviewers was to disapproved both applications.

This is about the time I contacted you and asked for assistance dealing with the situation. You may remember the rage in my first message.

>My greatest concern about this situation is how these unfounded rejections >are going to create havoc at the schools. The E-rate funding as I have said >is abosolutely critical to most schools ability to justify and fund Internet >access. A rejection of their E-rate puts a school into a tail spin that can >involve even the School Board. A lot of time and effort is going to be need-

>lessly consumed by this error.

Based on your involvement, it appeared, that the SLD was willing to reconsider and re-review the applications. A Mr. Philip Gieseler was assigned the task to re-review both applications.

Unfortunately Mr. Philip Gieseler was too busy to bother with any reconsideration of the funding applications. Below is his message to me on 8/28/03.

>Mr. Susnock --

>With so many thousands of applications before us, we sometimes find it >impossible to engage in an ongoing discussion about the details of our >decision process. However, I feel you can rely on the information I've >previously provided to make a determination whether or not to appeal the SLD >funding decisions that you've asked about.

Upset by the brush-off, I contacted you once again.

Curiously, a Mr. Palmer called both SAU 41 and Stark Village School before I received the email from Mr. Gieseler, asking that the information we had provided for the initial reviewer be resent because it had been lost. I again supported the schools and resent the Network diagrams to Mr. Palmer.

After many attempts to call Mr. Palmer for a status, he returned my call when I emailed him and copied you in on the message. Below is a message that I sent to you.

>Good Morning,

>I did manage to get through to Mark Palmer at the SLD yesterday.

>He has re-reviewed both the SAU 41 and Stark Village School >funding applications. Although he was hesitant to discuss >the status of the review with me, he did give up enough >information to be optimistic about both applications.

>I got the feeling that Palmer was selected to conduct the >re-review because he seemed to have a grasp on the elements >of a network. As I mentioned in an earlier message, his >questions to SAU 41 were the type of questions that should >have been asked in the first review.

>He said that the SAU 41 had been completed and that he believed >the Stark re-review would be completed by yesterday afternoon. >After he finished up, he would give the results to the person >that assigned him the task. He did not mention a name.

>I am hopeful that what I gleaned from the conversation will >be in fact the approval of both funding applications. As soon >as I hear from the SLD or the schools I will let you know the >outcome.

Unfortunately neither Mr. Palmer or his superior never did contact me or the schools with the outcome of his analysis.

Last week however, I received a phone call form a Mr. Andy Isley of USAC. Mr. Isley informed me that the result of Mr. Gieseler's re-review was not to approve the funding requests. I asked about the re-re-review performed by Mr. Palmer. Mr. Isley seemed taken off guard by the mention of Mr.Palmer. I expressed my frustration and suggested that I would escalate by appeal NH's Congreesman and Senators. He asked that I give him some more time to review Mr. Palmers analysis and promised to get back to me quickly.

I didn't hear back from Mr. Isley so I called him this morning. He said he had not taken the issue to his superior Mr. McDonald and I agreed to wait until this afternoon.

As I mentioned at the start of this message Mr. Isley called back and said the only recourse is to submit to the Appeals Process. It has been a long road so far and the score is USAC 3 and NH schools 0.

I have been helping schools apply for and receive Erate funds for six years so far and I have thankfully not seen anything as ridiculous as this situation. Two of the three reviews have given a thumbs up to the applications and now we are asked to go back to square one, submit more paperwork and wait ninety days for a response.

This is all a terrible waste of time and money !

Regards

Brian Susnock President and COO The Destek Group Inc. 1 Indian Head Plaza Nashua, NH. 03060 603-594-9630 ext. 207 Fax 603-598-8864 brian@destek.net



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Shipment Details

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Your item was delivered at 12:01 pm on October 10, 2003 in WHIPPANY, NJ 07981. The item was signed for by A GNZALAZ.

Here is what happened earlier:

- ARRIVAL AT PICK-UP-POINT, October 10, 2003, 7:43 am, WHIPPANY, NJ 07981
- ENROUTE, October 10, 2003, 4:29 am, WHIPPANY, NJ 07999
- ACCEPTANCE, October 09, 2003, 2:37 pm, HOLLIS, NH 03049

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Letter of Appeal Schools and Libraries Division Box 125 – Correspondence Unit 80 South Jefferson Road Whippany, NJ 07981

Subject: Appeal of Decision on FRN 961463 (see attached decision of 8/11/03)

To Whom It May Concern:

I am writing this letter in support of the appeal being made by SAU 41. My company The Destek Group, Inc. has provided SAU 41 with Internet Access and related networking services since 1997. Over the last six (6) years we have helped them develop and manage a very sophisticated SAU-Wide-Area-Network (WAN) that connects all of the schools included in the School Administrative Unit to the network hub located at the High School.

The SAU 41 WAN network includes one (1) Frame Relay T1 Internet Access circuit feed, two (2) Point to Point Internet Access Circuits and four (4) DSL Internet Access Circuits. See attached Conceptual Network Diagram and Network Map.

No major changes or additions have been made to the WAN and SAU 41 has previously applied for, and received Erate funding. I am not certain exactly why the decision was made to deny the SAU 41 year six (6) application for funding since my discussions with PIA representatives since the denial have clarified that the Point to Point circuits, that were the basis of the denial, are being used exclusively for Internet access.

I would appreciate you reconsideration and approval of the SAU 41 Funding Application If you have any questions you can reach me in my office at 603-594-9630 ext. 207.

Sincerely,

Brian Susnock President & COO The Destek Group, Inc. Letter of Appeal Schools and Libraries Division Box 125 – Correspondence Unit 80 South Jefferson Road Whippany, NJ 07981

Subject: Appeal of Decision on FRN 961463

To Whom It May Concern:

I would greatly appreciate your reconsideration of the decision to deny our application for year six Erate funding. Based on discussions with our Internet Service Provider and questions asked by representatives of the USAC PIA office, we believe that the SAU 41 network complies completely with Erate program rules and that all components meet the requirements of your "Eligible Services List".

Please see the attached letter and network descriptions from our provider.

I can assure you that the circuits in question and the overall network are intended and used only for providing Internet access to our students, teachers and administrators.

If you require any further information, please feel free to contact me. I appreciate you consideration and assistance.

Sincerely

Dr. Kenneth Debenedictis